forth in paragraphs (a) and (e) of section 157.20 and in Part 154 of such regulations.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc. 78-20591 Filed 7-24-78; 8:45 am]

[6740-02]

## MICHIGAN WISCONSIN PIPE LINE CO.

[Docket No. CP78-341]

### Findings and Order After Statutory Hearing Issuing Certificate of Public Convenience and Necessity

JULY 18, 1978.

On May 22, 1978, Michigan-Wisconsin Pipe Line Co. (applicant) [1] filed in Docket No. CP78-341 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by section 157.7(b) of the regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing July 13, 1978, and operation of certain facilities to take natural gas which will be purchased from producers or other similar sellers thereof, all as more fully set forth in the application in this proceeding.

The purpose of this budget-type authorization is to augment applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system and to the systems of other natural gas companies authorized to transport for or exchange with applicant supplies of natural gas in areas generally coextensive with such systems.

The total cost of said facilities will not exceed $12 million, with no single onshore project to exceed $1,500,000, and no single offshore project to exceed $2,500,000. These facilities will be financed with cash on hand.

Since the proposed facilities will be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction and operation thereof by applicant are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

After due notice by publication in the FEDERAL REGISTER on June 7, 1978 (43 FR 24733), no petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

At a hearing held on July 12, 1978, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record.

*The Commission finds:*

(1) The proposed expenditures are within the limits prescribed by section 157.7(b) of the regulations under the Natural Gas Act.

(2) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(3) The construction and operation of the proposed facilities by applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

*The Commission orders:*

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing applicant to construct, during the 12-month period commencing July 13, 1978, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers or other similar sellers who have received authorization from the Commission to sell natural gas to the gas purchaser and to permit the delivery of natural gas to implement authorized exchange and/or transportation arrangements with other pipeline companies.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon applicant's compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraph (b) of section 157.7 and in paragraphs (a), (e), and (f) of section 157.20 of such regulations.

(C) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with section 157.7(b)(3) of the Commission's regulations under the Natural Gas Act.

(D) The total expenditures for facilities to be constructed under the authorization granted by paragraph (A) above are limited to $12 million, with no single offshore project to exceed $2,500,000 and no single onshore project to exceed a cost of $1,500,000.

(E) The grant of the certificate herein is conditioned upon applicant's certifying to the Commission, within 60 days after all construction is completed under the instant authorization, that it has fully complied with the provisions of section 2.69 of the Commission's general policy and interpretations.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc. 78-20592 File 7-24-78; 8:45 am]

[1] Applicant, Michigan-Wisconsin Pipe Line Co., a Delaware corporation having its principal place of business in Detroit, Mich., is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by order of Nov. 30, 1946, in Docket No. G-669 (5 FPC 953).

[6740-02]

[Docket No. ER78-464]

## POTOMAC ELECTRIC POWER CO.

### Proposed Change in Delivery Points

*Correction*

JULY 12, 1978.

In FR Doc. 78-19311 appearing at page 30110 in the FEDERAL REGISTER of July 13, 1978, make the following change:

On page 30110, in the first column, first paragraph, second line, change "January" to "June."

KENNETH F. PLUMB,
*Secretary.*

[FR Doc. 78-20593 Filed 7-24-78; 8:45 am]

[6560-01]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 931-6; PP 7G1955 & 7G1959/T159]

### ALDICARB

### Renewal of a Temporary Tolerance

On August 1, 1977, the Environmental Protection Agency (EPA) announced (42 FR 38931) the establishment of a temporary tolerance for combined residues of the pesticide aldicarb (2-methyl-2-(methylthio)propionaldehyde *O*-(methylcarbamoyl) oxime and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl)propionaldehyde *O*-(methylcarbamoyl)oxime and 2-methyl-2-(methylsulfonyl)propionaldehyde *O*-(methylcarbamoyl)oxime in or on the raw agricultural commodity hops at 50 parts per million (ppm). This tolerance was established in response to pesticide petitions (PP 7G1955 & 7G1959) submitted by the Agricultural Research Center, Washington State University, Pullman, WA 99164, and the Agricultural Experiment Station, University of Idaho, Moscow, Idaho 83843. This temporary tolerance expired July 1, 1978.

Washington State University and the University of Idaho requested a 1-year renewal of the temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit that was renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been renewed on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Washington State University and the University of Idaho must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firms must also keep records of distribution and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires June 20, 1979. Residues not in excess of 50 ppm remaining in or on hops after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to the Special Registrations Branch, Registration Division (WH-567), office of Pesticide programs, room 315, East Tower, 401 M Street SW, Washington, D.C. 20460, 202-755-4851.

STATUTORY AUTHORITY: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].

Dated: July 18, 1978.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc. 78-20558 Filed 7-24-78; 8:45 am]

[6560-01]

[918-3]

## CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

### Waiver of Federal Preemption

### I. INTRODUCTION

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter "the Act"),[1] I am granting the State of California a waiver of Federal preemption to enforce its limitations on allowable maintenance for 1980 and subsequent model year gasoline-powered passenger cars and for 1981 and subsequent model year gasoline-powered light duty trucks and medium duty vehicles.[2]

Under section 209(b)(1) of the act, when California requests a waiver of Federal preemption as to accompanying enforcement procedures which relate to standards for which a waiver has already been granted and is still in effect, I must grant the requested waiver unless I find that (1) the procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards or (2) the California standards and accompanying enforcement procedures are not consistent with section 202(a) of the act. With regard to the first finding, if the public record of the proceedings before me contain plausible evidence that the California enforcement procedures may cause the California standards, in the aggregate, to be less protective than the corresponding Federal standards, then I must deny the waiver if: (1) California did not make a positive determination as to the protectiveness of the standards when coupled with the new enforcement procedures or (2) California did make such a determination, and the record contains clear and compelling evidence that its determination is arbitrary and capricious.[3] With regard to the second finding, State enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development of the technology necessary to implement the new procedures, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California test procedures impose inconsistent certification requirements.

I cannot make the findings required for a denial of the waiver under section 209(b)(1) with respect to California's limitations on allowable maintenance for aforementioned vehicle classes.

### II. BACKGROUND

On May 26, 1977, the California Air Resources Board (CARB) adopted provisions limiting the scheduled maintenance, to be performed during certification, on the engine, emission control system and fuel system of durability vehicles.[4] It also adopted provisions requiring approval by the Executive Officer of in-use maintenance instructions. Manufacturers cannot recommend any emissions control related maintenance other than that performed during certification.[5] Exceptions, also subject to CARB approval, were provided for maintenance to vehicles operated under extreme conditions and for inspections necessary to assure safe operations of the vehicle in use.[6] Compliance with the certification and the maintenance instruction limitations is a prerequisite to certification. Accordingly, all of the allowable maintenance regulations are accompanying enforcement procedures subject to review under the criteria set forth in the introduction.

On June 9, 1977, California requested a waiver of Federal preemption for all of the foregoing limitations on allowable maintenance.[7] Pursuant to a notice published in the FEDERAL REGISTER, a public hearing was held in San Francisco, Calif. on August 3-4, 1977.[8]

The Clean Air Act Amendments of 1977 were enacted on August 7, 1977.[9] EPA held a public hearing on October 13, 1977, to consider the effect of the amendments on this and all other pending waiver requests.[10]

### III. DISCUSSION

*Public Health and Welfare.* Certification procedures like the California limitations on allowable maintenance are "accompanying enforcement procedures" under section 209(b)(1) of the act.[11] The criteria for my review of the public health and welfare issue as it pertains to accompanying enforcement procedures have been set forth in the introduction.

California's 1980 and subsequent model year passenger car and 1981 and subsequent model year light duty truck and medium duty vehicle exhaust emission standards have received waivers of Federal preemption.[12] The public record does not contain plausible evidence that the restrictions on allowable maintenance cause the California standards to be less protective, in the aggregate, than the applicable Federal standards.

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[1] 42 U.S.C. § 7543(b) (1977).

[2] Paragraphs 3e, 3f, 3g and 3h, "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light Duty Trucks and Medium Duty Vehicles," incorporated by reference in Title 13, Cal. Admin. Code § 1960(b), as amended September 30, 1977 [hereinafter "1980 Test Procedures ¶ ——"]; 13 Cal. Admin. Code § 1960(c) (May 26, 1977).

[3] 43 FR 9344, 9345, 9346 (Mar. 7, 1978).

[4] See 1980 Test Procedures ¶ 3f.

[5] 1980 Test Procedures ¶ 3e, 3g and 3h; 13 Cal. Admin. Code § 1960(c) (May 26, 1977).

[6] 1980 Test Procedures ¶ 3g(1).

[7] Letter from Mr. William H. Lewis, Jr., executive officer, California Air Resources Board (CARB), to Douglas Costle, Administrator, Environmental Protection Agency (EPA), (June 9, 1977).

[8] 42 FR 36009 (July 13, 1977).

[9] Pub. L. 95-95, 91 Stat. 685 (Aug. 7, 1977).

[10] 42 FR 45942 (Sept. 13, 1977).

[11] 42 FR 3192, 3194 (Jan. 17, 1977).

[12] *See* 43 FR 25729 (June 14, 1978), pertaining to 1980 and subsequent model year passenger cars; 43 FR 1829 (Jan. 12, 1978), pertaining to 1981-82 light duty trucks and medium duty vehicles; 43 FR 15490 (Apr. 13, 1978), pertaining to 1983 and subsequent model year light duty trucks and medium duty vehicles.

Furthermore, California has determined that its underlying standards as affected by the allowable maintenance limitations are at least as protective of public health and welfare as the applicable Federal standards.[13] The public record does not contain clear and compelling evidence that this *determination* was arbitrary and capricious. As discussed later, the record contains assertions that *the restrictions themselves* are arbitrary and capricious or were adopted in an arbitrary and capricious manner. But, these contentions do not address the narrow determination to be reviewed herein. Accordingly, I find no basis for denying the waiver on this issue.

*Consistency of Procedures.* If I find that the California certification procedures conflict with the corresponding Federal procedures so as to make manufacturers unable to meet Federal and California requirements with the same test vehicle, I must deny the waiver unless the conflicts are resolved through administrative action. Because the California limitations on maintenance during certification are more restrictive than the corresponding Federal prodecures,[14] and because the manufacturers presented no arguments on this issue, I cannot find a conflict between the respective certification procedures.[15]

*Technology and Lead Time.* I also must deny a California waiver request if I find inadequate lead time remaining to permit the development and application of the requisite technology. For the purposes of this discussion, I distinguish at times between the certification and in-use instruction limitations. However, because the in-use instruction limitations relate to the manufacturer's ability to produce motor vehicles which will conform to the standards throughout their useful life, their technological feasibility along with that of the certification limitations is relevant to my decision.

With regard to certification maintenance limitations, Chrysler found them technologically feasible.[16] Ford also could comply with the limitations as they related to certification.[17] Ford and Chrysler did qualify their assessments by stating that they applied only to certification, and not to in-use or recommended maintenance.[18] AMC, although it could not say the limitations were technologically feasible, could not state that they were technologically infeasible.[19]

General Motors was the one major American manufacturer to argue that both the certification and in-use limitations were not technologically feasible within the remaining lead time.[20] General Motors, and others, pointed to the oxygen sensor as one essential component in future emission control systems having relatively unknown durability characteristics.[21] Some evidence in the record tended to support this position.[22] However, indications by Ford[23] and information provided by my staff regarding recent technological advancements suggest otherwise.[24] Based on the record before me, I cannot find that there is inadequate lead time in which to develop and apply the requisite technology.

Several manufacturers contended that the allowable maintenance limitations will inhibit the development and implementation of new emissions control technology.[25] The lack of actual examples, which would constitute evidence of this problem, make this argument speculative. Furthermore, the rapid technological advancements with regard to oxygen sensors, mentioned above, are strong evidence that manufacturers can design both new and durable emissions control components while meeting California's limited maintenance requirements.

The remaining objections, regarding specific maintenance items, pertain mostly to the in-use limitations. Many manufacturers argued that to assure proper functioning, drive belts required a "check and replace if necessary" maintenance instruction more frequently than every 30,000 miles.[26] AMC presented the only data supporting this position. That data consisted of test results showing a significant decrease in belt tension after initial operation.[27] However, subsequent evidence indicated that belt tension stabilizes after initial break-in, and the addition of a pre-sale check would reduce this problem.[28] Similar objections concerning "inspect and replace if necessary" maintenance items were made by several manufacturers with respect to air and fuel filters[29] and by General Motors with respect to emissions related hoses and tubings.[30] Provisions, discussed above, in the California regulations allow a manufacturer to recommend additional maintenance for extreme driving conditions or for safety reasons. In addition, General Motors in making its objection apparently did not give full consideration to all of the technological alternatives available at the time of the public hearing.[31] For these reasons, there is insufficient evidence to support a finding based on the foregoing arguments that the allowable maintenance regulations are technologically infeasible within the remaining lead time.

Subaru contended that small, highly loaded engines, and particularly those operating on leaded fuels, cannot run for 30,000 miles between spark plug changes.[32] Another argument, made by General Motors, centered on the need for more frequent adjustments to mechanical ignition timing systems, which GM intends to continue utilizing.[33] Again, I do not find these arguments to be persuasive due to the lack of supporting evidence.

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[13] State of California Air Resources Board, Resolution 77-48 at 4 (Sept. 30, 1977).

[14] *Compare* 40 C.F.R. § 86.078-25 and 1980 Test Procedures ¶ 3f. Since the Federal regulations specify the maximum frequency for performing various maintenance items, any less frequent intervals would not conflict with these regulations.

[15] Objections regarding possible conflicts between California's and Federal maintenance instruction limitations which do not present conflicting methods of obtaining certification, are discussed hereinafter.

[16] Transcript of public hearing on California waiver request 231-232 (Aug. 3-4, 1977) [Hereinafter "August Tr."].

[17] August Tr. 130. Prior to the public hearing on Aug. 3-4, 1977, California banned the use of the fuel additive MMT in certification fuel. *See* letter from G. C. Hass, CARB, to all motor vehicle manufacturers (July 8, 1977). This eliminated the grounds for Ford's objection to the certification limitations.

[18] *See* notes 16,17, *supra.*

[19] August Tr. 237.

[20] August Tr. 154, 161; General Motors statement to the CARB on proposed changes to allowable maintenance practices 8-10 (May 26, 1977); letter from Mr. T. M. Fisher, director, Automotive Emission Control, General Motors Corp., to Mr. Benjamin R. Jackson, director, Mobile Source Enforcement Division (MSED), EPA 2-3 (Aug. 26, 1977) [hereinafter GM Aug. 26, 1977, letter].

[21] August Tr. 187-188; Toyota comments before the EPA waiver hearing on the California exhaust emission standard for 1982 and subsequent model light and medium-duty vehicles, attachment I at 2 (Aug. 3-4, 1977); letter from Mr. Thomas C. Austin, deputy executive officer, CARB to Mr. Benjamin R. Jackson, director, MSED, EPA, attachment I at 4 (Aug. 31, 1977).

[22] *Id.;* State of California Air Resources Board, staff Report No. 77-12-1, at 13 (May 26, 1977).

[23] August Tr. 140.

[24] Memorandum from James McNab III, to file (Mar. 17, 1978).

[25] August Tr. 140-141, 146, 150-151, 188, 236, 237, 254. GM Aug. 26, 1977, letter 4. Transcript of public hearing on California waiver requests 175 (Oct. 13, 1977) [hereinafter "October Tr."].

[26] August Tr. 117, 161, 167-168, 228, 233, 235, 238; GM Aug. 26, 1977, letter 6-7; Toyota comments, note 21, *supra,* attachment I at 1; Volkswagen and Audi's reply to CARB proposal for changes to regulations regarding allowable maintenance during new vehicle certification of light-duty and medium-duty vehicles 2 (Apr. 28, 1977).

[27] August Tr. 235.

[28] August Tr. 237-238.

[29] August Tr. 228; GM Aug. 26, 1977; letter 5-6; Toyota comments, note 20, *supra,* attachment I at 2.

[30] August Tr. 169-174; GM Aug. 26, 1977, letter 6-7.

[31] Ronald E. Kruse, "Analysis of the Technical Feasibility of the California Allowable Maintenance Regulations"—waiver hearing, Aug. 3-4, attachment II (November 1977) [hereinafter "EPA Analysis"].

[32] August Tr. 253.

[33] August Tr. 183-184; GM Aug. 26, 1977, letter 4.

Lastly, General Motors argued that the CARB had failed to demonstrate that the regulations are technologically feasible.[34] This contention, however, ignores the fact that the manufacturer has the burden of demonstrating the existence of grounds upon which, under the criteria enumerated in section 209(b), I must deny a waiver request.[35]

Based on the foregoing discussion and the analysis of my staff,[36] I cannot find that there is inadequate lead time remaining to permit the development and application of the requisite technology.

*Cost of Compliance.* The CARB estimated that the regulations would reduce maintenance costs by an amount sufficient to offset any increase in retail costs, resulting in a net cost benefit.[37] The manufacturers did not challenge this conclusion. Several trade associations, representing the aftermarket parts and service industry, argued that the regulations would not result in a cost benefit.[38] These arguments are not supported by data refuting the CARB's conclusion. In addition, a finding that the regulations are cost effective is not required. Accordingly, I cannot find that the cost of complying with California's restrictions on allowable maintenance presents sufficient grounds for denying the waiver request.

*Objections to Granting the Waiver.* Ford, General Motors, AMC, and the Motor and Equipment Manufacturers Association all argued that California does not need restrictions on allowable maintenance as they, in the eyes of the interested parties, will contribute to rather than alleviate California's air pollution problems.[39] In prior waiver decisions, I have addressed my scope of review insofar as "accompanying enforcement procedures" are concerned.[40] Under section 209(b) the question of need is only applicable to a waiver request concerning standards.

As mentioned above, several interested parties argued in various ways that the California regulations are arbitrary and capricious or were adopted in an arbitrary and capricious manner.[41] These contentions are all beyond the narrow scope of review granted to me by section 209(b)(1)(A) of the act and its legislative history.[42] As prior waiver decisions have held, section 209(b) does not give me the latitude to review procedures at the State level, and the EPA hearing is not the proper forum in which to raise these objections.[43] Similarly, objections pertaining to the wisdom of California's judgment on various public policy matters[44] are beyond my scope of review.[45]

The most often expressed objection to these regulations centered on potential conflicts between the California limitations on what maintenance instructions may be provided to owners and section 207(c)(3)(A) of the act.[46] This section of the act provides that the manufacturer shall provide maintenance instructions which correspond to regulations promulgated by the Administrator. Interested parties argued that this provision entirely preserves this area for Federal regulation and that California's maintenance instructions are not entitled to a waiver.[47]

I cannot accept this contention. A State's right to prescribe limitations on allowable maintenance is not preempted by the existence of section 207(c)(3)(A). The only applicable preemption provision in the act is section 209(a); it is what prevents States from acting on their own.[48] Because the California maintenance instruction requirements constitute a condition precedent to the initial retail sale of a new motor vehicle in California, they fall within the purview of section 209(a) and are subject to preemption. California has received a waiver for the underlying standards, and I have found that I cannot deny the waiver request for these limitations under the criteria specified in section 209(b)(1). The maintenance instruction limitations are, therefore, entitled to a waiver and are no longer subject to the preemption of section 209(a).

Interested parties further contended that they cannot provide maintenance instructions which are consistent with both section 207(c)(3)(A) and the California limitations.[49] The initial arguments, contending that a manufacturer has the right to determine what maintenance is reasonable and necessary, have been mooted by the Clean Air Act Amendments of 1977.[50] Until I promulgate regulations regarding written maintenance instructions, Califor-

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[34] August Tr. 154; October Tr. 174.

[35] 40 FR 30311, 30314 (July 18, 1975).

[36] EPA analysis 3-5.

[37] Staff Report 77-12-1, note 22, supra, 28-30, 32-33; August Tr. 29.

[38] August Tr. 89-91, 194-197; "Comments of Automotive Service Industry Association (ASIA) in Opposition to Waiver Request of the California Air Resources Board Regarding Allowable Maintenance" 3 (July 25, 1977); "Supplemental Comments of ASIA Relative to Waiver Requests of the California Air Resources Board Regarding Allowable Maintenance" 3 (Sept. 23, 1977); Letter from Mr. Frank Engler, Chairman, Trust for Automotive Political Education, to Mr. Benjamin R. Jackson, Director, MSED, EPA, 1 (July 27, 1977).

[39] August Tr. 91-92, 133, 154, 190-191, 237; GM Aug. 26, 1977 Letter 2; Statement of Ford Motor Co., "Clean Air Act Amendments of 1977—Limitations on Maintenance Adopted by California" 4 (Oct. 13, 1977) [hereinafter "Ford's October Statement"]; Letter from T. M. Fisher, Director, Automotive Emission Control, General Motors, to Mr. B. R. Jackson, [Director], MSED, EPA, (Feb. 16, 1978); "General Motors Analysis of the Reports Used by the California Air Resources Board to Support the Restricted Maintenance Regulation" 1-8, 15 (Feb. 1978). The CARB Staff Reports and other submissions to the public record disagreed with this contention. It contended that given vehicle owners' maintenance practices, improved designs which would result from the allowable maintenance limitations would result in emissions reductions. See State of California Air Resources Board, Staff Report 77-9-2, at 1, 3-12, 19-28 (Apr. 28, 1977); Staff Report 77-12-1, note 22, supra, 1, 3-12, 19-28; CARB Letter of Aug. 31, 1977, note 21, supra, Attachment I at 13; Letter from Mr. Thomas C. Austin, Deputy Executive Officer, CARB, to Mr. Benjamin R. Jackson, MSED, EPA, 1-4 (Mar. 20, 1978).

[40] 43 FR 9344, 9345 (Mar. 7, 1978).

[41] Motor Vehicle Manufacturers Association of the United States, Inc., "A Memorandum to the California Air Resources Board Regarding Proposed Maintenance Requirements" 1-4, 7-8 (Jan. 31, 1977) [hereinafter "MVMA Memo"]; Memorandum from John P. Eppel and Helen O. Petrauskas, Ford Motor Co., to B. R. Jackson, Presiding Officer, EPA, 24-33 (Sept. 9, 1977) [hereinafter "Ford Sept. 9, 1977 Memo"]; GM Aug. 26, 1977 letter 4, 8; October Tr. 176-179, 183, 185-189, 191; Supplemental Comments of ASIA, note 38, supra, 3; Ford's October Statement 2; Letter from Michael W. Grice, Esq., Chrysler Corp., to Mr. Benjamin R. Jackson, Director, MSED, EPA, 2 (Oct. 28, 1977). General Motors Analysis, note 39, supra, 15; Letter from T. M. Fisher to Mr. Benjamin R. Jackson of Feb. 16, 1978, note 39, supra.

[42] 42 U.S.C. 7543(b)(1)(A) (1977); H.R. Rep. No. 95-294, 95th Cong., 1st Sess. 301-302 (1977).

[43] 42 FR 44209, 44212 (Oct. 7, 1976).

[44] Notes 38 and 39, supra; August Tr. 86-113, 193-209.

[45] 42 FR 44209, 44210 (Oct. 7, 1976).

[46] 42 U.S.C. § 7541(c)(3)(A) (1977).

[47] Comments of ASIA, note 38, supra, 3; MVMA Memo 6-7; MVMA Response to the Staff Memorandum 6 (Jan. 31, 1977); August Tr. 88-89, 123, 214-215, 219, 224-225, 254; October Tr. 137-139; Ford's October Statement 5-6.

[48] Section 116 of the act identifies sections that preempt certain State actions; the remaining powers are left to the States. 42 U.S.C. § 7416 (1977); CARB, "Memorandum of Legal Points" 10 (Oct. 13, 1977).

[49] Comments of ASIA, note 38, supra, 3; Letter from MVMA, note 47, supra 2; MVMA Memo 4-6; MVMA Response to the Staff Memorandum 5-6 (Jan. 31, 1977); Supplemental Comments of ASIA, note 38, supra, 1-3; August Tr. 87-88, 115, 124-125, 156-158, 214, 221; Statement of Ford Motor Co.—Hearing of the Environmental Protection Agency to Consider California's Request for a Waiver with Respect to Emission Control Related Maintenance 4-5 (Aug. 3, 1977) [hereinafter "Ford's August Statement"]; General Motors Legal Comments to the CARB Regarding Proposed Regulations to Limit the Amount of Maintenance Which Vehicle Manufacturers may Perform during Certification and Recommend to their Customers 3-5 (May 26, 1977).

[50] See 42 FR 45942, 45943 (Sept. 13, 1977) wherein EPA determined that the Clean Air Act Amendments of 1977 applied to all pending waiver requests including this one.

nia's limitations clearly do not conflict with any Federal requirements. I will give appropriate consideration to California's regulatory scheme in any regulations I promulgate.

Another major objection, raised primarily by Ford and General Motors, challenged the maintenance limitations on several constitutional grounds.[51] Despite contentions to the contrary, these arguments are beyond the scope of my review, and the waiver hearing is not the proper forum in which to raise them.[52] Accordingly, I am not legally empowered to make a determination regarding these contentions.

### IV. Findings and Decision

Having given due consideration to the public record, I find that I cannot make the findings required for a denial of a waiver under section 209(b)(1) of the act. Therefore, I hereby waive application of section 209(a) of the act to the State of California with respect to: (1) paragraphs 3e, 3f, 3g and 3h of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model [Year] Passenger Cars, Light Duty Trucks and Medium Duty Vehicles," as amended September 30, 1977 and incorporated by reference in Title 13, California Administrative Code, § 1960(b) and (2) section 1960(c) of Title 13 of the California Administrative Code, adopted May 26, 1977. This waiver covers the limitation on allowable maintenance applicable to 1980 and subsequent model year gasoline-powered passenger cars and 1981 and subsequent model year gasoline-powered light duty trucks and medium duty vehicles.

My decision to grant the waiver will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce motor vehicles for sale in California. For this reason I hereby determine and find that this decision is of nationwide scope and effect.

A copy of the above standards and procedures, as well as the record of the hearing and those documents used in arriving at this decision, is available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, Sacramento, Calif. 95812.

Dated: July 17, 1978.

Douglas M. Costle,
*Administrator.*

[FR Doc. 78-20518 Filed 7-24-78; 8:45 am]

[51] "Ford Motor Co. Suggested Agenda for Meeting with CARB Legal Counsel Regarding Proposed Limitations on Regularly Scheduled Maintenance" 3 submitted July 25, 1977; MVMA Response to the Staff Memorandum 12-13 (Jan. 31, 1977); August Tr. 127-129, 158-159, 230; Ford's August Statement 7-10; General Motors Legal Comments (May 26, 1977), note 49, supra, 7, 9-13; Ford's October Statement 6-8.

[52] 42 FR 2337, 2339 (Jan. 11, 1977).

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[6560-01]

[FRL 931-7; OPP-00074]

### FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

#### Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 2-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Thursday and Friday, August 10 and 11, 1978. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH-566), room 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Completion of Panel review on FIFRA Section 6(b) action on chlorobenzilate products;

2. A briefing will be given to the Panel on the principal decision options which are being considered by the Agency to conclude the compound 1080, compound 1081, and strychnine RPAR's (rebuttable presumption against registration); and

3. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit copies of a summary no later than August 4, 1978.

Individuals who wish to file written statements are advised to submit copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel.

Statutory Authority: Section 25(d) of FIFRA, as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*) and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).

Dated: July 19, 1978.

Edwin L. Johnson,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc. 78-20559 Filed 7-24-78; 8:45 am]

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[6560-01]

[FRL 931-2]

### SCIENCE ADVISORY BOARD EXECUTIVE COMMITTEE, SUBCOMMITTEE ON TOXIC SUBSTANCES

#### Open Meeting

Under Pub. L. 92-463, notice is hereby given that a one day meeting of the Subcommittee on Toxic Substances of the Science Advisory Board will be held on Friday, August 18, 1978 in Conference Room A (room 3906), Waterside Mall, 401 M Street SW., Washington, D.C. The meeting will start at 10 a.m.

The subcommittee will be meeting for the fourth time, the purpose being to review elements of the health and environmental effects test standards proposed by the Office of Toxic Substances.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. August 15, 1978. Please ask for Mrs. Shirley Smith. The telephone number is 202-755-0263.

Richard M. Dowd,
*Staff Director, Science Advisory Board.*

July 18, 1978.

[FR Doc. 78-20556 Filed 7-24-78; 8:45 am]